

CENTEX BATESON  
CONSTRUCTION CO., INC.

CONTRACT NO. V101C-1567

VA MEDICAL CENTER  
HOUSTON, TEXAS

VABCA-5166R -  
5204R, 5211R -  
5224R

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Braude & Marguiles, P.C., Washington, D. C., for the Appellant.

*Charlma J. Quarles, Esq., Stacey North Willis, Esq.,* Trial Attorneys, and  
*Phillipa L. Anderson, Esq.,* Assistant General Counsel, Washington, D.C., for the  
Department of Veterans Affairs.

**ORDER OF DISMISSAL,  
AND  
REDOCKETING ORDER**

1. These appeals, as redocketed by the Board on July 31, 2002, involve 1,272 claimed entitling events and total claims of \$1,539,883.63. A letter or letters designating its origin identifies an entitling event. One category of this classification method is by reference to a Request for Information (RFI) number used by Bateson during the course of Contract performance. RFI's were categorized by the originating construction trade and the events for which the real party in interest here, the Dynaletric Company (Appellant or Dynaletric), claimed recompense relate to Architectural (A) RFIs, Civil (C) RFIs, Electrical (E) RFIs, Mechanical (M) RFIs and Structural (S) RFIs. Events for which Dynaletric seeks recovery were also identified by Field Change Orders (FCO), Field Supplemental Agreements (FSA), Central Office Change Orders (COCO), Central Office Supplemental Agreements (COSA) and Pricing Requests submitted to the VA by Dynaletron or Bateson (PR or D). Dynaletric's damage claims are set forth in six categories identified in each event. These damage categories are as follows:

CATEGORY	DESCRIPTION
TYPE A	DIRECT LABOR DAMAGES
TYPE B	IMPACT ON CHANGED WORK

TYPE C	IMPACT ON UNCHANGED WORK
TYPE D	STOP IMPACT
TYPE E	UNPLANNED GO-BACK IMPACT
TYPE F	OFFICE IMPACT

2. With leave granted by the Board, Dynalectric filed its 4<sup>th</sup> AMENDED COMPLAINT ON JULY 18, 2002. In the 4<sup>th</sup> AMENDED COMPLAINT, Dynalectric withdrew certain of its appeals based on FSA and COSA events. The Board dismissed those appeals with prejudice on July 31, 2002.

3. After a series of prehearing conferences and other communication between the Board and the parties, the Board granted Appellant leave to amend its COMPLAINT. The Board is now in receipt of Appellant's 5<sup>th</sup> AMENDED COMPLAINT (COMPLAINT). In the COMPLAINT, Appellant, *inter alia*, states the following:

[t]his amendment [of the COMPLAINT] is limited to seeking recovery for 'Type C Damages,' or cumulative impact damages, as all other types of damages raised in the earlier stages of this appeal have been withdrawn or dismissed.

Based on prior proceedings and agreements among the parties and the Board, the only damages remaining at issue in this appeal are the Type C damages for the cumulative impact of changes on unchanged work.

4. Based on the above representations in the COMPLAINT, the Board considers Appellant to have withdrawn all appeals relating to the above captioned Contract except for claims and appeals relating to cumulative impact on unchanged work (Type C damages).

5. The COMPLAINT, incorporates a computer spreadsheet designated "XCOS\_R." XCOS\_R denotes the amount claimed for each damage category by event and indicates a total of 252 events involving Type C damages. These claimed Type C damage events are hereby redocketed as VABCA-5166R. The 28 events, currently comprising the scope of the appeal in VABCA-5166R are also moved from VABCA-5166R to VABCA-5167R. Thus, the scope of appeal in VABCA-5166R is as follows:

**CENTEX BATESON CONSTRUCTION CO. INC.  
VABCA-5166R  
APPEAL SCOPE**

EVENT	\$ AMOUNT
A-80	844
A-106	7
A-228	7,976
A-271	11,299
A-472	904
A-513	855
A-516	1,811
A-521	917
A-555	3,357
A-634	1,020
A-643	1,113
A-654	89
A-666	1,019
A-678	513
	Total: \$31,724

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-693	585
A-707	897
A-709	7,976
A-716	623
A-721	7,895
A-723	837
A-726	443
A-729	799
A-730	774
A-731	850
A-734	477
A-750	1,079
A-754	1,195
A-760	79
	Total: \$24,509

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-767	241
A-772	1,666
A-774	150
A-779	2,715
A-783	611
A-803	161
A-806	824
A-807	159
A-833	1,302
A-836	683
A-837	139
A-843	767
A-850	157
A-887	734
	Total: \$10,309

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-888	613
A-906	1,609
A-949	292
A-963	1,858
A-965	1,003
A-967	1,255
A-988	1,495
A-991	1,843
A-1039	1,098
A-1047	5,179
A-1050	228
A-1067	746
A-1074	9,342
A-1079	44
	Total: \$26,605

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-1082	297
A-1105	55
A-1117	7
A-1127	1,222
A-1131	132
A-1133	787
A-1137	8
A-1148	2,564
A-1152	7
A-1170	140
A-1195	1,942
A-1205	1,293
A-1206	1,058
A-1209	1,375
	Total: \$10,887

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-1210	2,351
A-1215	4,647
A-1216	2,217
A-1217	1,312
A-1223	2,179
A-1226	2,746
A-1228	1,297
A-1242	2,271
A-1255	1,218
A-1256	1,193
A-1260	5,176
A-1267	1,244
A-1274	3,358
A-1291	6,011
	Total: \$37,220



**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
A-1300	6,574
A-1307	1,320
A-1331	8,883
A-1335	4,940
A-1350	3,653
C-143	1,123
C-270	10,350
C-288	3,081
E-47	1,846
E-86	45,022
E-112	6,697
E-116	6,478
E-123	5,082
E-150	6
	Total: \$105,055

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-153	2,942
E-168	4,864
E-171	138
E-180	3,041
E-182	3,382
E-185	14,294
E-187	1,267
E-191	7,425
E-197	271
E-203	1,128
E-210	5,722
E-212	2,515
E-213	6,787
E-214	4,262
	Total: \$58,038

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-216	145
E-217	5,077
E-219	13,445
E-221	4,010
E-222	2,881
E-235	2,646
E-239	775
E-244	1,721
E-245	3,053
E-247	1,125
E-250	4,193
E-251	2,139
E-255	4,752
E-260	3,424
	Total: \$46,740

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-263	647
E-265	2,988
E-266	2,272
E-269	2,108
E-270	2,119
E-271	1,589
E-273	876
E-274	2,540
E-275	5,113
E-280	581
E-281	748
E-285	560
E-286	895
E-287	2,667
	Total: \$25,703

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-288	540
E-289	857
E-290	804
E-295	4,554
E-314	2,192
E-320	173
E-322	1,102
E-323	1,630
E-332	1,056
E-342	1,153
E-343	1,024
E-349	1,532
E-357	1,233
E-364	1,581
	Total: \$19,431

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-372	862
E-389	1,779
E-390	962
E-411	3,321
E-424	479
E-437	132
E-450	77
E-451	97
E-452	95
E-454	100
E-457	115
E-458	13,895
E-461	2,381
E-465	552
	Total: \$24,847

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-467	319
E-485	579
E-486	1,777
E-487	565
E-488	538
E-489	841
E-491	2,578
E-492	654
E-510	2,931
E-522	182
E-523	137
E-530	588
E-531	36,463
E-533	131
	Total: \$ 48,283

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-537	2,458
E-538	754
E-539	530
E-540	739
E-543	176
E-558	653
E-562	632
E-570	3,075
E-571	2,055
E-572	2,682
E-576	4,750
E-581	908
E-589	1,041
E-590	1,308
	Total: \$ 21,761



**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-591	1,026
E-597	922
E-599	1,411
E-603	1,038
E-604	734
E-607	4,012
E-612	55
E-615	81
E-616	2,069
E-617	8
E-618	90
E-621	65
E-628	165
E-630	1,118
	Total: \$ 12,794

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-631	1,709
E-634	1,655
E-644	4,169
E-647	2,400
E-650	4,815
E-651	4,254
E-653	1,543
E-655	1,634
E-656	3,651
E-658	3,897
E-662	2,578
E-666	2,147
E-673	4,623
E-674	4,182
	Total: \$ 43,257

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-675	5,884
E-680	4,492
E-681	2,368
E-684	4,326
E-689	4,166
E-690	840
E-691	3,494
E-695	1,912
E-696	1,978
E-697	1,412
E-700	1,562
E-702	1,365
E-703	1,671
E-704	2,045
	Total: \$ 37,515

**CENTEX BATESON CONSTRUCTION CO. INC.**  
**VABCA-5166R**  
**APPEAL SCOPE**

VABCA #	\$ AMOUNT
E-706	10,494
E-707	8,512
E-718	6,660
E-720	5,548
E-724	4,544
E-729	6,733
M-668	1,485
M-803	529
M-809	801
M-905	233
M-968	980
M-977	2,115
M-1063	14,577
S-474	1,440
S-675	2,532
	Total: \$ 67,183
Total VABCA-5166R	\$651,861

6. With the rodocketing contained within this ORDER, none of the events within the scope of the appeals in VABCA-5167R-5204R and 5211R-5244R, now include any claims for Type C damages. Accordingly, based on the COMPLAINT, the Appeals of Centex Bateson Construction Co., Inc. under Contract No. V101C-1567, VABCA-5166R-5204R and 5211R-5224R are hereby **DISMISSED WITH PREJUDICE**.

7. With the forgoing dismissals, the Government's MOTION FOR PARTIAL SUMMARY JUDGMENT ON THE GROUNDS OF COLLATERAL ESTOPPEL is hereby **DISMISSED AS MOOT**.

**IT IS SO ORDERED**

DATE: **June 24, 2003**

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RICHARD W. KREMPASKY  
Administrative Judge